

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN—NORTHERN DIVISION

In re JESSICA ANN ROCHEFORT,

Case No. 21-20562

Chapter 7

Hon. Daniel S. Opperman

Debtor.

ESTATE OF ROBERT PLUME,

Plaintiff,

v.

Adv. Proc. No. 21-2027

JESSICA ANN ROCHEFORT,

Defendant.

**OPINION AND ORDER ON MOTION TO STRIKE COMPLAINT AS
UNTIMELY FILED WITHOUT JUSTIFICATION AND FOR BEING
IMPROPERLY FILED BY INDIVIDUAL NOT AUTHORIZED TO
PRACTICE LAW BEFORE THIS COURT**

Introduction

On September 12, 2021 Defendant Jessica Rochefort filed a Motion to Strike that requested the Court to dismiss this Adversary Proceeding for various reasons. Defendant properly served the Motion and Brief on the Plaintiff, but Plaintiff did not respond to the Motion. For the reasons stated in this Opinion, the Court partially grants Defendant's Motion and dismisses this Case.

Jurisdiction

This Court has subject matter jurisdiction over this proceeding pursuant to 28 U.S.C. § 157, 28 U.S.C.1334 and E. D. Mich. LR 83.50(a). This is a core proceeding pursuant to 28 U.S.C. § 157

(b)(2)(I) (determinations as to the dischargeability of particular debts).

Findings of Fact and Analysis

Defendant, as a Debtor, filed a petition seeking Chapter 7 relief on May 11, 2021. The deadline to file an action regarding the discharge of debts was set for August 16, 2021 and notice of this deadline was sent by the Clerk of the Court by way of the Notice of Chapter 7 Bankruptcy Case to all creditors, including the Plaintiff. This Notice was filed on May 11, 2021 at docket #6. Plaintiff filed this Adversary Proceeding on August 17, 2021, one day after the August 16, 2021 deadline. Plaintiff did not properly serve Defendant or Defendant's attorney, so the Court reissued Summonses to allow Plaintiff the opportunity to do so. Plaintiff did not, prompting the Court to enter an Order on September 15, 2021 directing the Plaintiff to correct the deficiencies in service by September 15, 2021 and failing that, indicating the proceeding may be dismissed without a hearing. Plaintiff has not taken any action to correct the deficiencies.

Defendant's Motion and Brief direct the Court to the untimely filing of the Complaint in this Adversary Proceeding under Federal Rule of Bankruptcy Procedure 4007 and urges dismissal of this action. Defendant is correct. Moreover, Plaintiff has not properly served the Summons and Complaint in this action, warranting dismissal under Federal Rule of Civil Procedure 12(b)(5), made applicable to this proceeding by Federal Rule of Bankruptcy Procedure 7012. For these reasons, the Court grants Defendant's Motion to Dismiss. Because dismissal is appropriate for these reasons, the Court need not address the other issues raised by Defendant.

WHEREFORE, IT IS HEREBY ORDERED that this Adversary Proceeding is
DISMISSED.

Not for publication
Signed on October 5, 2021



/s/ Daniel S. Opperman

Daniel S. Opperman
United States Bankruptcy Judge